

Making an appeal to the Independent Police Complaints Commission



Appealing against the  
non-recording of a complaint  
by the UK Border Agency (UKBA)



# Appealing against the non-recording of a complaint by the UK Border Agency (UKBA)

## What can I do if I am unhappy about the way my complaint was handled?

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If you have made a serious complaint against a UKBA immigration officer or official and you are unhappy with the way it has been handled, you may be able to appeal to the IPCC.

The IPCC, which stands for Independent Police Complaints Commission, is an independent organisation responsible for the way serious complaints about UKBA staff exercising police-like powers are handled. This could include complaints about serious assault or corruption. We are also responsible for considering appeals made by members of the public about these serious complaints and can, where appropriate, direct UKBA to change its decision or to take further action.

The IPCC cannot review less serious complaints about staff or complaints about overall UKBA policies, for example about immigration decisions.

## What does this leaflet tell me?

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This leaflet describes what you can do if UKBA does not record your serious complaint. It sets out:

- The grounds on which you can make an appeal to the IPCC
- What you need to do to make an appeal
- How the IPCC will deal with your appeal
- How to get in touch with the IPCC

## When should UKBA record a complaint?

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UKBA has a duty to record your complaint about the conduct of a member of staff exercising police-like powers or give you reasons why it has been decided not to record your complaint.

If you have tried to make a serious complaint about a member of UKBA staff exercising police-like powers but UKBA did not record it, you may be able to appeal to the IPCC. We will look at your case to see whether the non-recording was justified.

## Can I appeal to the IPCC about the non-recording of my complaint?

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The IPCC can only consider an appeal where:

The complaint includes one of the following serious allegations about the conduct of UKBA immigration officers or officials:

- Behaviour resulting in a death or serious injury
- Serious assault
- Serious sexual offences
- Serious corruption
- Criminal offences aggravated by discriminatory behaviour
- Any incident which engages Articles 2 or 3 of the European Convention on Human Rights

AND

The allegation involves one of the police-like powers outlined below:

- Powers of entry
- Powers to search persons or property
- Powers to seize or detain property
- Powers to arrest persons
- Powers to detain persons
- Powers to examine persons or otherwise to obtain information, (including powers to take fingerprints or to acquire other personal data)
- Powers in connection with the removal of persons from the United Kingdom

**Please note the IPCC has no powers to deal with appeals in relation to:**

- Complaints about UKBA officers and officials not exercising police-like powers
- Complaints about overall UKBA policies and procedures
- Complaints about matters that took place before 1st April 2007
- Complaints concerning incidents occurring in Scotland and Northern Ireland

These complaints will be dealt with by UKBA under a separate system.

If your complaint does include a serious allegation about the conduct of a UKBA staff member exercising police-like powers, you can appeal to the IPCC if:

- **UKBA did not make a decision whether or not to record your complaint.** UKBA must make a decision about whether or not they are going to record your complaint and they must communicate their decision to you in writing. The IPCC expects UKBA to decide whether a complaint should be recorded within 10 working days. You can make an appeal to us if you do not hear from UKBA within this time.
- **UKBA did not record your complaint.** UKBA has a duty to record complaints about the conduct of their staff. However, UKBA do not have to record a complaint if:
  - It has already been dealt with by criminal or disciplinary proceedings against the person being complained about
  - The complaint has been withdrawn by the complainant
  - It is about overall UKBA policies and procedures
  - It has been made by a member of UKBA staff
- **UKBA did not inform you that your complaint has been recorded OR the reason why it has not been recorded.** UKBA must let you know in writing if they have recorded your complaint or the reasons for deciding not to record your complaint.

### How do I make an appeal?

Complete the form at the end of this leaflet, giving as much information as possible and follow the instructions on the back of the leaflet.

**Please note: You must make your appeal to us within 28 days of the date of the letter you have received from UKBA telling you that your complaint has not been recorded and passed to the IPCC.**

If you are appealing because UKBA has not told you whether or not they will record your complaint and it has been 10 working days since you made your complaint, you have another 28 days to make your appeal.

If you do not submit your appeal to the IPCC within 28 days, the IPCC does not have to consider your appeal. The IPCC may be able to extend this time period if you have very special circumstances and you fully explain your reasons for requesting an extension.

### How will the IPCC deal with my appeal?

Once your appeal form has been received, the IPCC will send you a letter introducing the casework manager who will be dealing with your appeal and explaining how you can contact them.

We will consider the information you have given on the appeal form and contact UKBA to get any relevant information or paperwork. We will then make a decision as to whether the appeal can be upheld.

If your appeal is upheld, the IPCC will give instructions to UKBA about what they should do about your complaint. UKBA must follow these instructions. We will inform you in writing of the instructions we have given UKBA and explain what will happen next.

If your appeal is not upheld, we will write to you explaining how and why the IPCC has reached its decision.

### What if I need more advice?

If, after reading this leaflet, you are still not sure what to do next or you need some more information, you can contact an organisation such as your local Citizens Advice Bureau for advice. You can also talk to a legal advisor.

If you prefer, you can contact the IPCC for advice about the appeals process. You can also contact the IPCC if you have any difficulties filling in this form.

Tel: 0845 877 0083

Email: [enquiries@ipcc.gov.uk](mailto:enquiries@ipcc.gov.uk)

Web: [www.ipcc.gov.uk](http://www.ipcc.gov.uk)

# Appealing against the non-recording of a complaint by UKBA

The IPCC must receive your appeal within 28 days of the date of the letter you have received from UKBA notifying you that your complaint has not been recorded and passed to the IPCC.

If you are appealing because UKBA have not told you whether or not they will record your complaint and it has been 10 working days since you made your complaint, you have another 28 days to make your appeal.

If there is anything which makes it difficult for you to use our service, for example if English is not your first language or you have a disability, please contact us on 0845 877 0083 or use the space below to tell us how we might help to make things easier for you.

Please indicate the office or location of UKBA your complaint is about.

Please tick the appropriate box   Mr    Mrs    Miss    Ms    Other (please state)

First Name  (BLOCK CAPITALS)   Surname  (BLOCK CAPITALS)

Your address   
  
   Postcode

Daytime tel no    Evening tel no

Email address

Date you made your complaint    IPCC/UKBA reference number

Who did you make your complaint to? (for example, to the IPCC, UKBA or other organisations)

How did you make your complaint? (E.g. phone, letter, in person)

Please provide brief details of the complaint you made to UKBA (continuing on a separate sheet if necessary).

If you have any documents to support your complaint, please send these to the IPCC with this form. Please note that any information you supply in relation to an appeal will be supplied to UKBA.

Signature of the person making the appeal

Date

The IPCC, like all public bodies, is obliged to record the ethnicity of people using their service. Being able to identify the ethnicity of complainants, helps us to check we are reaching all sections of society. Please describe your ethnicity using the boxes below.

<b>White:</b>	White British	<input type="checkbox"/>	White Irish	<input type="checkbox"/>	Any other White background	<input type="checkbox"/>		
<b>Mixed:</b>	White and Black Caribbean	<input type="checkbox"/>	White and Black African	<input type="checkbox"/>	White and Asian	<input type="checkbox"/>	Any other mixed background	<input type="checkbox"/>
<b>Asian or Asian British:</b>	Indian	<input type="checkbox"/>	Pakistani	<input type="checkbox"/>	Bangladeshi	<input type="checkbox"/>	Any other Asian background	<input type="checkbox"/>
<b>Black or Black British:</b>	Caribbean	<input type="checkbox"/>	African	<input type="checkbox"/>	Any other Black background	<input type="checkbox"/>		
<b>Other ethnic groups:</b>	Chinese	<input type="checkbox"/>	Any other ethnic group	<input type="checkbox"/>				
<b>Other:</b>	Prefer not to say	<input type="checkbox"/>						

When you have completed this form please send it to the Independent Police Complaints Commission at the relevant address on the back of this leaflet.

Please send your completed forms to the Independent Police Complaints Commission at the address below.

Independent Police Complaints Commission  
Evergreen House, Unit C  
Cedar Court Office  
Denby Dale Road  
Calder Grove  
Wakefield WF4 3DB

Please note that information you supply in relation to an appeal will be supplied to UKBA.

The IPCC will use the information you have provided only for the purposes of processing your complaint and in performance of its legal functions under the Police and Justice Act 2006 and the Independent Police Complaints Commission (Immigration and Asylum Enforcement Functions) Regulations 2008. The IPCC will not pass on information to third parties except where it is necessary in the proper performance of its functions.

If you would like more advice about the appeals process, please contact us using the details below.

You can also use the details below if you would like to obtain this leaflet in another format.

Independent Police Complaints Commission  
90 High Holborn  
London  
WC1V 6BH

Tel: 0845 877 0083  
Email: [enquiries@ipcc.gsi.gov.uk](mailto:enquiries@ipcc.gsi.gov.uk)  
Web: [www.ipcc.gov.uk](http://www.ipcc.gov.uk)

Date: April 2008  
Reference: COM/34